

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 **Marquis & Aurbach**  
TERRY A. COFFING, ESQ.  
2 Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
3 Nevada Bar No. 9525  
10001 Park Run Drive  
4 Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
5 Facsimile: (702) 382-5816  
tcoffing@maclaw.com  
6 mcecil@maclaw.com  
Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 WMCV PHASE 3, LLC, a Delaware limited  
liability company,

11 Plaintiff,

12 vs.

13 SHUSHOK & MCCOY, INC., a Texas  
14 corporation; MATTHEW J. TRAVIS, an  
individual; MATT TURNER, an individual;  
15 RICHARD BIRDWELL, an individual;  
GLOBAL ACCENTS, INC., a California  
16 corporation; COUTURE INTERNATIONAL,  
INC., a Quebec corporation; DOES I through X,  
17 inclusive; ROE ENTITIES I through X,  
inclusive,

18 Defendants.

Case No.: 2:10-cv-00661-GMN-RJJ

19  
20 **MOTION TO STRIKE MATT TURNER'S ANSWER AND APPLICATION TO ENTER**  
21 **DEFAULT, OR IN THE ALTERNATIVE MOTION FOR AN ORDER TO SHOW**  
22 **CAUSE WHY MATT TURNER'S ANSWER SHOULD NOT BE STRICKEN AND**  
23 **DEFAULT ENTERED**

24 Plaintiff WMCV PHASE 3, LLC, by and through its attorneys, Marquis Aurbach  
25 Coffing, hereby submits this MOTION TO STRIKE MATT TURNER'S ANSWER AND  
26 APPLICATION TO ENTER DEFAULT, OR IN THE ALTERNATIVE, MOTION FOR AN  
27 ORDER TO SHOW CAUSE WHY MATT TURNER'S ANSWER SHOULD NOT BE  
28 STRICKEN AND DEFAULT ENTERED.

1     **I. INTRODUCTION.**

2             Defendant Matt Turner has not participated in this matter since his attorney withdrew on  
3     April 25, 2011. See ECF No. 59. Indeed, Turner not only failed to appear at the motion to  
4     withdraw hearing, but he has since failed to attend his two properly noticed depositions, and has  
5     avoided service of a subpoena seeking to compel his attendance and production of documents at  
6     a deposition. Plaintiff requests the Court strike Turner's Answer for Turner's failure to  
7     participate in discovery pursuant to Federal Rule of Civil Procedure 37, and enter default against  
8     Turner pursuant to Federal Rule of Civil Procedure 55. Alternatively, Plaintiff requests the  
9     Court issue an Order to Show Cause Why Turner's Answer Should Not Be Stricken and Why  
10    Default Should Not Be Entered.

11    **II. FACTUAL BACKGROUND.**

12            1.     On March 16, 2011, Turner's attorneys, Bailey Kennedy, filed an Emergency  
13    Motion to Withdraw. See ECF No. 49.

14            2.     On April 6, 2011, this Court scheduled the Emergency Motion to Withdraw for  
15    Hearing on April 25, 2011 at 3:00 PM and ordered that Turner appear at the hearing stating:

16                   IT IS FURTHER ORDERED that a corporate representative for Defendant  
17                   Shushok & McCoy, Inc., must appear in court for this hearing. There is NO  
18                   EXCEPTION to this requirement. Failure to appear may result in an order to  
19                   show cause being issued by the court.

20                   IT IS FURTHER ORDERED that individual defendants, Matthew J. Travis, Matt  
21                   Turner and Richard Birdwell must appear in court for this hearing. There is NO  
22                   EXCEPTION to this requirement. Failure to appear may result in an order to  
23                   show cause being issued by the court.

24            See ECF No. 52.

25            3.     Although Travis and Birdwell appeared telephonically at the April 25, 2011  
26    hearing and stated that Turner was the representative for Shushok & McCoy, Turner did not  
27    appear at the hearing. See ECF No. 59.

28            4.     Additionally, the Court stated, "The court will issue an order to show cause for  
Matt Turner for his failure to participate in this hearing." Id. The referenced order to show  
cause was not issued.

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1           5.       On April 27, 2011, Plaintiff served Turner, at his last known address, with a  
2 Notice of Videotaped Deposition set for May 16, 2011 at 8:00 AM to take place at the office of  
3 Marquis Aurbach Coffing. See Declaration of Matthew T. Cecil, attached hereto as **Ex. 1** at ¶ 5.  
4 Turner neither objected to nor appeared for the May 16, 2011 deposition. Id. at ¶ 6.

5           6.       Plaintiff attempted to serve a subpoena upon Turner to compel his appearance at a  
6 deposition set for September 22, 2011. Id. at ¶ 8. However, Plaintiff learned during Mr.  
7 Birdwell's September 23, 2011 deposition that Turner intentionally avoided service of the  
8 subpoena. Id. at ¶ 9. Specifically, Mr. Birdwell stated Turner knew Plaintiff was trying to serve  
9 Turner with a subpoena and Turner told Mr. Birdwell "They will never take me alive" and that  
10 his plan was to avoid service. See Excerpt from Birdwell's deposition at 114:7-115:13 attached  
11 hereto as **Ex. 1-D**.

12           7.       On September 9, 2011, Plaintiff served Turner by mail an Amended Notice of  
13 Deposition at his last known address, as well as his address set forth in the tax records of the  
14 Denton County, Texas Assessor, to take place on September 22, 2011 at 3102 Oak Lawn Ave.,  
15 Suite 777, Dallas Texas, which upon information and belief is near to where Turner resides.  
16 **Ex. 1** at 10.

17           8.       Turner did not object to the amended deposition notice, and failed to appear on  
18 September 22, 2011 for his deposition. Id. at ¶ 11.

19           9.       Plaintiff incurred \$3,114.70 in expenses, including fees and costs in trying to take  
20 Turner's deposition. Id. at ¶ 12.

21           10.      It is impossible to meet and confer with Turner regarding his failure to attend his  
22 depositions because Turner is intentionally avoiding all participation in this matter and returning  
23 all mail regarding this matter. Id. at ¶ 14. See also ECF Nos. 74, 75, 76, 85, 87, 91, 96, 101,  
24 103, 112, 117, 119, 123, 127, 128, 133, and 134.

25           11.      On April 19, 2012, this Court ordered the parties, including Turner, to participate  
26 in a settlement conference on May 18, 2012 at 8:30 AM, ordering "All counsel of record who  
27 will be participating in the trial of this case, all parties appearing pro se, if any, and all  
28

1 **individual parties must be present. No exceptions are made to this requirement.**"

2 (emphasis in original). ECF No. 124.

3 12. The Court served this order on Turner. ECF Nos. 124, 125.

4 13. On May 8, 2012, this Court ordered the settlement conference changed to May 24,  
5 2012, at 1:30 PM. ECF No. 129.

6 14. On May 9, 2012, the undersigned served Turner with a ECF No. 124 and notice  
7 that the settlement conference had been changed to May 24, 2012 via certified mail as this Court  
8 required. ECF Nos. 129, 130, 131, 133, and 134.

9 15. Turner did not appear in person or telephonically for the mandatory settlement  
10 conference.

### 11 **III. LEGAL ARGUMENT.**

12 Federal Rule of Civil Procedure 37 governs sanctions against a party for failing to  
13 participate in discovery. Specifically, Rule 37(d) provides in pertinent part:

14 (d) Party's Failure to Attend Its Own Deposition, Serve Answers to  
15 Interrogatories, or Respond to a Request for Inspection.

16 (1) In General.

17 (A) Motion; Grounds for Sanctions. The court where the action is pending  
18 may, on motion, order sanctions if:

19 (i) ***a party*** or a party's officer, director, or managing agent--or a person  
20 designated under Rule 30(b)(6) or 31(a)(4)--***fails, after being served with proper  
notice, to appear for that person's deposition; or***

21 ...

22 (3) ***Types of Sanctions. Sanctions may include any of the orders listed in Rule  
37(b)(2)(A)(i)-(vi).*** Instead of or in addition to these sanctions, the court must  
23 require the party failing to act, the attorney advising that party, or both to pay the  
24 reasonable expenses, including attorney's fees, caused by the failure, unless the  
failure was substantially justified or other circumstances make an award of  
expenses unjust.

25 Fed. R. Civ. P. 37(d) (emphasis added). The appropriate sanctions for a party failing to attend  
26 the party's properly noticed deposition include "striking pleadings in whole or in part;" and  
27 "rendering a default judgment against the disobedient party." Fed. R. Civ. P. 37(b)(2)(A)(iii)  
28 and (vi).

MARQUIS AURBACH COFFING

1001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 In the case at bar, Turner has refused to participate in this matter since his attorney  
2 withdrew. Specifically, Turner: (1) failed to appear at the hearing regarding his attorney's  
3 motion to withdraw; (2) intentionally avoided service of Plaintiff's deposition subpoena; (3)  
4 ignored two separate notices scheduling his depositions; (4) failed to appear at two separate  
5 depositions; and (5) failed to participate in the mandatory settlement conference.

6 As a result of Turner's actions and his intentional avoidance of this matter, it is  
7 impossible for Plaintiff's counsel to meet and confer with Turner. Consequently, Plaintiff  
8 respectfully requests the Court: (1) strike Turner's answer from the record; (2) enter default and  
9 allow Plaintiff to proceed with a default judgment against Turner; and (3) order Turner to pay  
10 \$3,114.70 to Plaintiff, which represents Plaintiff's reasonable expenses, including fees and costs,  
11 caused by Turner's failure to participate in this matter.

#### 12 **IV. CONCLUSION.**

13 On October 5, 2010, this Court denied Turner's Motion to Dismiss for lack of personal  
14 jurisdiction by finding the Court had jurisdiction over Turner. ECF No. 25. Unfortunately, the  
15 Court's order that it indeed had jurisdiction over Turner meant nothing to Turner, since to date  
16 he has acted as though this Court has no authority over him. This is emphasized by the fact that  
17 the April 19, 2012 Order required Turner's presence at the settlement conference, with **no**  
18 **exceptions**. Nevertheless, Turner did not attend the settlement conference. There is no point to  
19 ordering Turner's mandatory presence at the settlement conference, unless a sanction arises for  
20 Turner's blatant failure to comply with the Court's order.

21 Turner's Answer should be stricken from the record and default judgment should be  
22 entered against Turner, because Turner has intentionally ignored this Court's orders, refused to  
23 appear for his properly noticed depositions, intentionally avoided being served a subpoena which  
24 sought to compel his deposition and the production of documents, and failed to participate in the  
25 mandatory settlement conference. Moreover, Turner should be ordered to pay Plaintiff the

26 ///

27 ///

28

1 \$3,114.70 it incurred while trying to compel and take Turner's deposition. Alternatively,  
2 Plaintiff requests the Court order Turner to show cause why this Court should not strike Turner's  
3 Answer and allow Plaintiff to obtain default judgment against him.

4 Dated this 6<sup>th</sup> day of July, 2012.

5 MARQUIS AURBACH COFFING

6  
7 /s/ Matthew T. Cecil  
8 Terry A. Coffing, Esq.  
9 Nevada Bar No. 4949  
10 Matthew T. Cecil, Esq.  
11 Nevada Bar No. 9525  
12 10001 Park Run Drive  
13 Las Vegas, Nevada 89145  
14 Attorneys for Plaintiff  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am employed with the law firm of Marquis Aurbach Coffing, and that on the 16<sup>th</sup> day of July, 2012, I electronically filed the foregoing **Motion To Strike Matt Turner's Answer And Application To Enter Default, Or In The Alternative, Motion For An Order To Show Cause Why Matt Turner's Answer Should Not Be Stricken And Default Entered** with the Clerk of the U.S. District Court for the State of Nevada, using the CM/ECF electronic filing system which will cause the documents to be electronically served upon the following counsel of record:

Michael B. Lee, P.C.  
Michael B. Lee, Esq.  
2000 South Eastern Ave.  
Las Vegas, Nevada 89104  
Attorney for Defendant  
Global Accents, Inc.

William R. Urga, Esq.  
Jolly Urga Wirth Woodbury & Standish  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, NV 89169  
Attorneys for Defendant  
Couture International

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

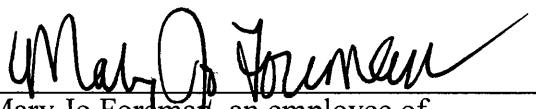
Matt Turner  
c/o Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

Matt Turner  
46 Cimarron Dr.  
Trophy Club, Texas 76262

Matthew Travis  
3300 Tori Trail  
Keller, TX 76248

Richard Birdwell  
2804 Red Wolf Drive  
Fort Worth, TX 76244

Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

  
Mary Jo Foreman, an employee of  
Marquis Aurbach Coffing

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

# **EXHIBIT “1”**

# **EXHIBIT “1”**



MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**Marquis Aurbach Coffing**  
TERRY A. COFFING, ESQ.  
Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tcoffing@maclaw.com  
mcecil@maclaw.com  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WMCV PHASE 3, LLC, a Delaware limited  
liability company,

Case No.: 2:10-cv-00661-GMN-RJJ

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas  
corporation; MATTHEW J. TRAVIS, an  
individual; MATT TURNER, an individual;  
RICHARD BIRDWELL, an individual;  
GLOBAL ACCENTS, INC., a California  
corporation; COUTURE INTERNATIONAL,  
INC., a Quebec corporation; DOES I through X,  
inclusive; ROE ENTITIES I through X,  
inclusive,

Defendants.

And Related Matters

**MATTHEW T. CECIL'S DECLARATION IN SUPPORT OF WMCV PHASE 3'S**  
**MOTION TO STRIKE MATT TURNER'S ANSWER AND APPLICATION TO ENTER**  
**DEFAULT, OR IN THE ALTERNATIVE MOTION FOR AN ORDER TO SHOW**  
**CAUSE WHY MATT TURNER'S ANSWER SHOULD NOT BE STRICKEN AND**  
**DEFAULT ENTERED**

STATE OF NEVADA       )  
                                  )  
COUNTY OF CLARK     )

I, Matthew T. Cecil, Esq., in support of WMCV Phase 3's Motion to Strike Matt Turner's  
Answer and Application to Enter Default, or in the Alternative Motion for an Order to Show

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 Cause Why Matt Turner's Answer Should Not Be Stricken and Default Entered, declare as  
2 follows:

3 1. I am an attorney licensed to practice in the State of Nevada. I am an associate  
4 with Marquis Aurbach Coffing ("MAC"), who represents WMCV Phase 3, LLC, a Delaware  
5 limited liability company ("Plaintiff") in the above captioned matter.

6 2. I have personal knowledge of the facts stated herein, with the exception of those  
7 assertions which are based upon my belief.

8 3. I am competent to testify to the facts stated herein in a court of law and will so  
9 testify if called upon.

10 4. I am familiar with pleadings, motions, and papers served and filed by MAC in the  
11 above captioned matter. The original of those documents referenced herein and attached hereto  
12 were created at or near the time of the act or event, as stated therein, by or from information  
13 transmitted by a person with knowledge of the act or event, in the course of a regularly  
14 conducted activity of WMCV Phase 3.

15 5. On or about April 27, 2011, MAC served Defendant Matt Turner a Notice of  
16 Videotaped Deposition, which set the deposition to take place on May 16, 2011 at 8:00 am at  
17 MAC's office. A true, correct, and accurate copy of the Notice of Videotaped Deposition is  
18 attached hereto as **Exhibit A**.

19 6. MAC never received an objection to the deposition and Turner failed to appear  
20 for his deposition on May 16, 2011. A true, correct, and accurate copy of the Statement of  
21 Nonappearance Re. Scheduled Deposition of Matthew Turner is attached hereto as **Exhibit B**.

22 7. Subsequently, MAC tried to arrange times and dates for the depositions of Turner,  
23 Richard Birdwell, Matthew Travis, and the 30(b)(6) witness of Shushok & McCoy. MAC  
24 succeeded in arranging September 23, 2011 as a date for Birdwell and Travis, however, MAC  
25 was unable to reach Turner, who is also the representative of Shushok & McCoy.

26 8. Consequently, on September 5, 2011, MAC issued a subpoena for Turner, seeking  
27 to compel Turner to produce documents and appear for a deposition on September 22, 2011 at  
28 8:45 am at 3102 Oak Lawn Ave., Suite 777, Dallas Texas, 75219, which upon information and

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 belief, is in the same part of Texas where Turner lives and works. A true, correct, and accurate  
2 copy of the subpoena is attached hereto as **Exhibit C**.

3 9. Unfortunately, we were unable to serve Turner with the subpoena because, as  
4 Richard Birdwell testified during his deposition, Turner said he intentionally avoided service of  
5 the subpoena. See excerpt from Mr. Birdwell's Deposition Transcript attached hereto as  
6 **Exhibit D**, at 114:7-115:13.

7 10. On or about September 9, 2011, MAC served Turner with an Amended Notice of  
8 Deposition, which set the deposition for September 22, 2011, at 8:45 am, at 3102 Oak Lawn  
9 Ave., Suite 777, Dallas Texas, 75219. A true, correct, and accurate copy of the Amended Notice  
10 of Deposition is attached hereto as **Exhibit E**. While preparing this notice, I researched Turner's  
11 property tax records, and also served the motion to what is listed as his home address, 46  
12 Cimmaron, Trophy Club TX 76262. A true, correct, and accurate copy of Turner's property tax  
13 record is attached hereto as **Exhibit F**.

14 11. MAC never received an objection from Turner to the amended deposition notice,  
15 and Turner failed to appear on September 22, 2011 for his deposition. A true, correct, and  
16 accurate copy of the Statement of Non-Appearance is attached hereto as **Exhibit G**.

17 12. In the course of trying to take Turner's deposition, Plaintiff incurred \$ 3,114.70 in  
18 expenses, including attorney fees and cost. A true, correct, and accurate copy of MAC's  
19 invoices to Plaintiff regarding the services and costs incurred in the course of trying to take  
20 Turner's deposition are attached hereto as **Exhibit H**. There were four total depositions  
21 scheduled in Texas and associated with Shushok & McCoy and Turner. Therefore, to arrive at  
22 this number, the fees and costs incurred for travel and preparation for all four of the depositions  
23 were equally prorated among the four deponents. See also \$250 charge from the Texas Court  
24 Reporter detailed in Exhibit G.

25 13. It has been impossible for MAC to meet and confer with Turner regarding his  
26 failure to appear at his depositions, because upon information and belief, Turner is intentionally  
27 avoiding all participation in this matter.  
28

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

/s/ Matthew T. Cecil  
Matthew T. Cecil, Esq.

# **EXHIBIT “A”**

# **EXHIBIT “A”**

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**Marquis Aurbach Coffing**  
TERRY A. COFFING, ESQ.  
Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tcoffing@maclaw.com  
mcecil@maclaw.com  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WMCV PHASE 3, LLC, a Delaware limited  
liability company,

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas  
corporation; MATTHEW J. TRAVIS, an  
individual; MATT TURNER, an individual;  
RICHARD BIRDWELL, an individual;  
GLOBAL ACCENTS, INC., a California  
corporation; COUTURE INTERNATIONAL,  
INC., a Quebec corporation; DOES I through X,  
inclusive; ROE ENTITIES I through X,  
inclusive,

Defendants.

Case No.: 2:10-cv-00661-RCJ-RJJ

**NOTICE OF VIDEOTAPED DEPOSITION OF MATTHEW TURNER**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE pursuant to F.R.C.P. Rules 26 and 30, that Plaintiff, by and through its counsel of record, the law firm of Marquis Aurbach Coffing, will take the videotaped deposition of **MATTHEW TURNER**, before a Notary Public, or before some other officer authorized by law to administer oaths. The deposition will commence on **May 16, 2011 at the hour of 8:00 a.m.** at the offices of Marquis Aurbach Coffing, 10001 Park Run Drive, Las Vegas, Nevada 89145.

///

1 Oral testimony will continue from day to day until completed. You are hereby invited to  
2 attend and cross-examine.

3 DATED this 21 day of April, 2011.

4 MARQUIS AURBACH COFFING

5  
6 By 

Terry A. Coffing, Esq.  
Nevada Bar No. 4949  
Matthew T. Cecil, Esq.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**CERTIFICATE OF MAILING**

I hereby certify that on the 27<sup>th</sup> day of April, 2011, I served a copy of the foregoing  
**NOTICE OF VIDEOTAPED DEPOSITION OF MATTHEW TURNER** upon each of the  
parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las  
Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Matt Turner  
c/o Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

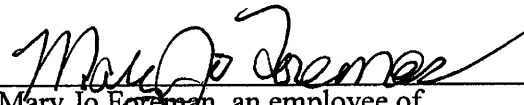
Matthew Travis  
3300 Tori Trail  
Keller, TX 76248

Richard Birdwell  
2804 Red Wolf Drive  
Fort Worth, TX 76244

Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
**KRAVITZ SCHNITZER SLOANE & JOHNSON CHTD.**  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, Nevada 89123  
Attorneys for Defendant Global Accents

I further certify that there is regular communication between the place of mailing and the places  
so addressed.

  
Mary Jo Foreman, an employee of  
Marquis Aurbach Coffing



# **EXHIBIT “B”**

# **EXHIBIT “B”**

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WMCV PHASE 3, LLC, a  
Delaware limited liability  
company,

**COPY**

Plaintiff,  
vs.

Case No.:  
2:10-cv-00661-GMN-RJJ

SHUSHOK & McCOY, INC., a  
Texas corporation; MATTHEW J.  
TRAVIS, an individual; MATT  
TURNER, an individual;  
RICHARD BIRDWELL, an  
individual; GLOBAL ACCENTS,  
INC., a California  
corporation; COUTURE  
INTERNATIONAL, INC., a Quebec  
corporation; DOES I through X,  
inclusive; ROE ENTITIES I  
through X, inclusive,

Defendants.

**STATEMENT OF NONAPPEARANCE RE. SCHEDULED  
DEPOSITION OF MATTHEW TURNER**

Taken on Monday, May 16, 2011  
8:24 a.m.

At Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, Nevada

Reported by: Michelle C. Johnson, RPR-CRR  
NV CCR 771, CA CSR 5962

**APPEARANCES:**

For the Plaintiff

**MATTHEW T. CECIL**  
Attorney at Law  
MARQUIS AURBACH COFFING  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
702/382-0711  
Fax: 702/856-8911  
mcecil@maclaw.com

For Defendant Couture International, Inc.:

**J. CHRISTOPHER JORGENSEN**  
Attorney at Law  
LEWIS and ROCA LLP  
3993 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169-5996  
702/474-2642  
Fax: 702/216-6178  
cjorgensen@lrlaw.com

**EXHIBITS**

(None offered.)

**PROCEEDINGS****8:24 A.M.**

MR. CECIL: Today's date is Monday, May 16; the time is 8:24 a.m. We have a deposition scheduled for Defendant Matt Turner, who is an employee of Shushok & McCoy. Deposition notice was duly served upon Mr. Turner by mail.

We are here; he is not here. The deposition was supposed to begin at 8 o'clock. I am present with the court reporter and with Chris --

MR. JORGENSEN: Jorgensen.

MR. CECIL: -- Jorgensen.

Do you want to make your appearance?

MR. JORGENSEN: It's Chris Jorgensen, here on behalf of Couture International, Incorporated.

MR. CECIL: Mr. Turner is not here, so we will go ahead and conclude the deposition, and that's it.

MR. JORGENSEN: And we'll reserve all rights that are available under the statutes and court rules for this nonappearance.

MR. CECIL: As will we.

(Thereupon, the proceedings concluded at 8:25 a.m.)

\* \* \* \* \*

## REPORTER'S DECLARATION

STATE OF NEVADA            )  
                                  )    ss:  
COUNTY OF CLARK         )

I, Michelle C. Johnson, CCR 771, declare as follows:

That I reported the taking of the Statement of Nonappearance re. Scheduled Deposition of Matthew Turner commencing on Monday, May 16, 2011 at 8:24 a.m.

That I simultaneously transcribed my said shorthand notes into typewriting via computer-aided transcription, and that the typewritten transcript of said proceedings is a complete, true, and accurate transcription of said shorthand notes taken down at said time.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated at Las Vegas, Nevada this 16th day of May, 2011.

  
Michelle C. Johnson, RPR-CRR, CCR No. 771

# **EXHIBIT “C”**

# **EXHIBIT “C”**

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

## UNITED STATES DISTRICT COURT

for the  
Northern District of TexasWMCV PHASE 3, LLC, a Delaware limited liability co*Plaintiff*

v.

SHUSHOK & MCCOY, INC., a Texas corporation;*et al**Defendant*

Civil Action No. 2: 10-cv-00661-GMN-RJJ

(If the action is pending in another district, state where:

District of Nevada

SUBPOENA TO TESTIFY AT A DEPOSITION  
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTIONTo: Matt Turner aka Matthew Turner: c/o Shushok & McCoy, Inc., 2637 Ira E. Woods, Suite 100  
or 46 Cimmarron Ct, Trophy Club, Texas 76262

☐ **Testimony:** **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Lackey Hershman, L.L.P.  
3102 Oak Lawn Avenue, Suite 777  
Dallas Texas 75219

Date and Time:

09/22/2011 08:45 8:45 AM

The deposition will be recorded by this method: Court Reporter

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: \_\_\_\_\_

CLERK OF COURT

OR

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*\_\_\_\_\_  
*Attorney's signature*

The name, address, e-mail, and telephone number of the attorney representing (name of party) \_\_\_\_\_

, who issues or requests this subpoena, are:

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action (Page 2)

Civil Action No. 2:10-cv-00661-GMN-RJJ

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* Matt Turner aka Matthew Turner  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**Marquis Aurbach Coffing**  
TERRY A. COFFING, ESQ.  
Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tcoffing@marquisaurbach.com  
mcecil@marquisaurbach.com  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WMCV PHASE 3, LLC, a Delaware limited liability company,

Case No.: 2:10-cv-00661-RCJ-RJJ

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas corporation; et al. MATTHEW J. TRAVIS, an individual; MATT TURNER, an individual; RICHARD BIRDWELL, an individual; GLOBAL ACCENTS, INC., a California corporation; COUTURE INTERNATIONAL, INC., a Quebec corporation; DOES I through X, inclusive; ROE ENTITIES I through X, inclusive,

Defendants.

**EXHIBIT 1**

**The following Definitions shall apply to each item to be produced as listed below:**

1. "Document" includes but is not limited to items commonly referred to as: written reports, letters, books, telegrams, memoranda, drawings, notes, tape recordings, photographs, writings, statements, written records, minutes of meetings, agreement, contracts, maps, diagrams, illustrations, photographs, telegrams, written analysis, reports, electronic recordings,

transcription, and memoranda made of any telephone communication or face-to-face oral meeting or conversation, written communication (which includes, but is not limited to, any letter, interoffice communication and telegram), paper, book or other document. "Document" includes the original, any copy and any drafts thereof or any other written or graphic material communication however denominated.

2. "Correspondence" includes but is not limited to items commonly referred to as: e-mails, facsimiles, letters, telegrams, and any communication exchanged with another.

### **LIST OF DOCUMENTS TO PRODUCE**

1. A copy of each and every Document, dated between May 1, 2010 and the present as well as undated documents, relating to any of the following businesses:

- |                                      |                               |                                   |
|--------------------------------------|-------------------------------|-----------------------------------|
| • 5 <sup>th</sup> Avenue Design      | • Global Accents              | • Ovation Furniture & Accessories |
| • Art Classics, Ltd.                 | • Global New Arts Corp.       | • Pacific Art and Frame Co.       |
| • Artcraft Furniture                 | • Good Companies-Finegood     | • Phoenix Imports                 |
| • Artdecor Trading, Inc.             | • Italiana Solatti            | • Pieri Creations                 |
| • BIPZ LLC                           | • Jordi Est E Designs         | • Pottery Land LLC                |
| • Bluefish Trading                   | • Koeing International        | • R Smith Collection              |
| • Brazil Boutique                    | • Kudzu Imports               | • Raj Development                 |
| • California Art Studio              | • Lam House Furnishings       | • Rizzon Furniture                |
| • California Kids Inc.               | • Marthena Home Furnishing    | • Robert M Weiss Presents         |
| • Capa Imports                       | • Max-Win International       | • S.F. Imports                    |
| • Clearwater American Furniture      | • MBM Enterprise              | • Scherer Jardin                  |
| • Compass Home Furnishings           | • Morettis Design Collection  | • Shekhawti Art Imports           |
| • Couture International              | • Natural as Sleep Inc.       | • Soho Design                     |
| • Creative Images                    | • Novidom Contemporary Design | • South Fork Dakota               |
| • DeMoma                             | • Nuance Fine Furniture       | • Spero Electric                  |
| • Friendly Hearts Ltd.               | • Ormasas International       | • Stephan John                    |
| • Fusion Designs                     | • Oshin Imports               | • TBK Inc./Forest Designs         |
| • Futon association of North America |                               | • The Butterfly Effect            |

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

- The Spanish Door Corporation
- Tru Home USA
- World Concepts
- Tombstone Silver Works
- Virtual Couch Ind
- World Source Design
- Trade AM International, Inc.
- Visiontac
- Yalu's Furniture
- White Orchid Living

2. Produce a copy of your Correspondence, including but not limited to e-mails, facsimiles, and any other written communications, between May, 2010 and the present, relating to the following business:

- 5<sup>th</sup> Avenue Design
- Good Companies-Finegood
- Pieri Creations
- Art Classics, Ltd.
- Italiana Solatti
- Pottery Land LLC
- Artcraft Furniture
- Jordi Est E Designs
- R Smith Collection
- Artdecor Trading, Inc.
- Koeing International
- Raj Development
- BIPZ LLC
- Kudzu Imports
- Rizzon Furniture
- Bluefish Trading
- Lam House Furnishings
- Robert M Weiss Presents
- Brazil Boutique
- Marthana Home Furnishing
- S.F. Imports
- California Art Studio
- Max-Win International
- Scherer Jardin
- California Kids Inc.
- MBM Enterprise
- Shekhawti Art Imports
- Capa Imports
- Morettis Design Collection
- Soho Design
- Clearwater American Furniture
- Natural as Sleep Inc.
- South Fork Dakota
- Compass Home Furnishings
- Novidom Contemporary Design
- Spero Electric
- Couture International
- Nuance Fine Furniture
- Stephan John
- Creative Images
- Ormasas International
- TBK Inc./Forest Designs
- DeMoma
- Oshin Imports
- The Butterfly Effect
- Friendly Hearts Ltd.
- Ovation Furniture & Accessories
- The Spanish Door Corporation
- Fusion Designs
- Pacific Art and Frame Co.
- Tombstone Silver Works
- Futon association of North America
- Phoenix Imports
- Trade AM International, Inc.
- Global Accents
- Tru Home USA
- Global New Ats Corp.
- Virtual Couch Ind

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- Visiontac
- White Orchid Living
- World Concepts
- World Source Design
- Yalu's Furniture

## **EXHIBIT “D”**

## **EXHIBIT “D”**

**RICHARD BIRDWELL**  
**September 23, 2011**

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

|                            |   |                       |
|----------------------------|---|-----------------------|
| WMCV PHASE 3, LLC, a       | ) |                       |
| Delaware limited liability | ) |                       |
| co.,                       | ) |                       |
|                            | ) |                       |
| Plaintiff,                 | ) |                       |
|                            | ) | Civil Action          |
|                            | ) | 2:10-CV-00661-GMN-RJJ |
| VS.                        | ) |                       |
|                            | ) |                       |
| SHUSHOK & MCCOY, a Texas   | ) |                       |
| corporation, et al.,       | ) |                       |
|                            | ) |                       |
| Defendant.                 | ) |                       |

-----  
ORAL DEPOSITION OF

RICHARD A. BIRDWELL

September 23, 2011  
-----

ORAL DEPOSITION OF RICHARD A. BIRDWELL, produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on the 23rd day of September, 2011, from 2:17 p.m. to 4:51 p.m., before Kim D. Carrell, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Lackey Hershman, LLP, 3102 Oak Lawn Avenue, Suite 777, Dallas, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

**RICHARD BIRDWELL**

**September 23, 2011**

1

APPEARANCES

2

FOR THE PLAINTIFF WMCV PHASE 3, LLC, A DELAWARE

3

LIMITED LIABILITY CO.:

4

Mr. Matthew T. Cecil

MARQUIS AURBACH COFFING

5

10001 Park Run Drive

Las Vegas, Nevada 89145

6

Telephone: 702.382.0711 - Fax: 702.856.8911

E-mail: mcecil@maclaw.com

7

- and -

8

Mr. Jonathan Leleu

9

In-House Counsel

World Market Center

10

495 S. Grand Central Parkway

Las Vegas, Nevada 89106

11

Telephone: 702.599.8105 - Fax: 702.541.1500

E-mail: jonathan.leleu@lasvegasmarket.com

12

13

14

15

ALSO PRESENT: Mr. Ross A. Mortillaro

LACKEY HERSHMAN, LLP

16

3102 Oak Lawn Avenue

Suite 777

17

Dallas, Texas 75219

18

19

20

21

22

23

24

25



**RICHARD BIRDWELL**  
**September 23, 2011**

1           A.     Matt and I were having a meeting with a client  
2     of ours from Oregon at Chill in Grapevine.

3           Q.     What was Matt Turner doing?

4           A.     Drinking.

5           Q.     Drinking?

6           A.     Chill is a bar.

7           Q.     Oh, in Grapevine. When's the last time you  
8     talked to Matt Turner about the litigation?

9           A.     I sent him a text -- actually, when I got  
10    served, I took a picture of it on my phone and sent it  
11    to him.

12          Q.     Your deposition subpoena?

13          A.     Um-hum.

14          Q.     Did he respond to you?

15          A.     I can look.

16          Q.     Go ahead and look.

17          A.     I don't remember.

18          Q.     Were you involved in any other of their  
19    strategy at all with respect to this lawsuit? Did they  
20    talk to you about what they were going to do or take your  
21    input or advice?

22          A.     Personally? Dale Denton.

23          Q.     What's that mean?

24          A.     I don't know. Dale Denton. Like a guy's  
25    name. Dale Denton. I assume it's a process server that

**RICHARD BIRDWELL**  
**September 23, 2011**

1 he knows.

2 Q. I don't know.

3 A. They had been trying to serve him.

4 Q. Did he tell you they were trying to serve  
5 him?

6 A. Yeah.

7 Q. What did he say?

8 A. Do I have to answer that?

9 Q. Yeah.

10 A. They will never take me alive.

11 Q. So he basically said he's not going to get  
12 served?

13 A. Yeah. That's his plan.

14 Q. Do you know, is Shushok & McCoy still  
15 operating?

16 A. It is my belief that they have closed down  
17 Shushok & McCoy.

18 Q. Did he open up something else?

19 A. Yes.

20 Q. What did he open up? What business is it  
21 called?

22 A. Barnaby & Wolfe.

23 Q. Barnaby & Wolfe?

24 A. Those are all really good names.

25 Q. Where did he get the Barnaby and Wolfe name;

# **EXHIBIT “E”**

# **EXHIBIT “E”**

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**Marquis Aurbach Coffing**  
TERRY A. COFFING, ESQ.  
Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tcoffing@maclaw.com  
mcecil@maclaw.com  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

WMCV PHASE 3, LLC, a Delaware limited  
liability company,

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas  
corporation; MATTHEW J. TRAVIS, an  
individual; MATT TURNER, an individual;  
RICHARD BIRDWELL, an individual;  
GLOBAL ACCENTS, INC., a California  
corporation; COUTURE INTERNATIONAL,  
INC., a Quebec corporation; DOES I through X,  
inclusive; ROE ENTITIES I through X,  
inclusive,

Defendants.

Case No.: 2:10-cv-00661-RCJ-RJJ

**AMENDED NOTICE OF DEPOSITION OF MATTHEW TURNER**

TO: DEFENDANT MATT TURNER, *aka* MATTHEW TURNER (Note, your deposition will  
be taken as set forth below)

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

PLEASE TAKE NOTICE pursuant to F.R.C.P. Rules 26 and 30, that Plaintiff, by and  
through its counsel of record, the law firm of Marquis Aurbach Coffing, will take the deposition  
of **MATT TURNER *aka* MATTHEW TURNER**, before a Notary Public, or before some other  
officer authorized by law to administer oaths. The deposition will commence on **September 22,**

1 2011 at the hour of 8:45 a.m. at the offices of Lackey Hershman, L.L.P., 3102 Oak Lawn  
2 Avenue, Suite 777, Dallas, Texas 75219.

3 Oral testimony will continue as permitted under FRCP 30 until completed. You are  
4 hereby invited to attend and cross-examine.

5 DATED this 7 day of September, 2011.

6 MARQUIS AURBACH COFFING

7  
8 By 

Terry A. Coffing, Esq.  
Nevada Bar No. 4949  
Matthew T. Cecil, Esq.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**CERTIFICATE OF MAILING**

I hereby certify that on the 9<sup>th</sup> day of September, 2011, I served a copy of the foregoing  
**AMENDED NOTICE OF DEPOSITION OF MATTHEW TURNER** upon each of the  
parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las  
Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Matt Turner  
c/o Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

Matt Turner  
46 Cimarron Ct  
Trophy Club, Texas 76262

Matthew Travis  
3300 Tori Trail  
Keller, TX 76248

Richard Birdwell  
2804 Red Wolf Drive  
Fort Worth, TX 76244

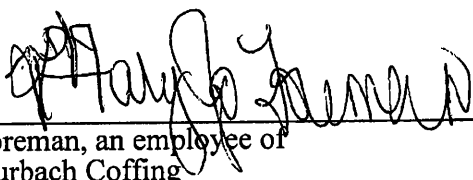
Shushok & McCoy, Inc.  
2637 Ira E. Woods, Suite 100  
Grapevine, TX 76051

Shushok & McCoy, Inc.  
c/o Matt Turner  
46 Cimarron Ct  
Trophy Club, Texas 76262

William R. Urga, Esq.  
Jolly Urga Wirth Woodbury & Standish  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, NV 89169  
Attorneys for Defendant Couture International

Gary E. Schnitzer, Esq.  
Michael B. Lee, Esq.  
Kravitz Schnitzer Sloane & Johnson Chtd.  
8985 S. Eastern Avenue, Suite 200  
Las Vegas, Nevada 89123  
Attorneys for Defendant Global Accents

I further certify that there is regular communication between the place of mailing and the places  
so addressed.

  
\_\_\_\_\_  
Mary Jo Foreman, an employee of  
Marquis Aurbach Coffing

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

## UNITED STATES DISTRICT COURT

for the  
Northern District of TexasWMCV PHASE 3, LLC, a Delaware limited liability co

Plaintiff

v.

SHUSHOK & MCCOY, INC., a Texas corporation;

et al

Defendant

Civil Action No. 2: 10-cv-00661-GMN-RJJ

(If the action is pending in another district, state where:

District of Nevada

SUBPOENA TO TESTIFY AT A DEPOSITION  
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTIONTo: Matt Turner aka Matthew Turner: c/o Shushok & McCoy, Inc., 2637 Ira E. Woods, Suite 100  
or 46 Cimmaron Ct, Trophy Club, Texas 76262

☐ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Lackey Hershman, L.L.P.  
3102 Oak Lawn Avenue, Suite 777  
Dallas Texas 75219

Date and Time:

09/22/2011 08:45 8:45 AM

The deposition will be recorded by this method: Court Reporter

☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: \_\_\_\_\_

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk\_\_\_\_\_  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) \_\_\_\_\_

, who issues or requests this subpoena, are:

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action (Page 2)

Civil Action No. 2:10-cv-00661-GMN-RJJ

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* Matt Turner aka Matthew Turner  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

**Marquis Aurbach Coffing**  
TERRY A. COFFING, ESQ.  
Nevada Bar No. 4949  
MATTHEW T. CECIL, ESQ.  
Nevada Bar No. 9525  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
tcoffing@marquisaurbach.com  
mcecil@marquisaurbach.com  
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

WMCV PHASE 3, LLC, a Delaware limited liability company,

Case No.: 2:10-cv-00661-RCJ-RJJ

Plaintiff,

vs.

SHUSHOK & MCCOY, INC., a Texas corporation; et al. MATTHEW J. TRAVIS, an individual; MATT TURNER, an individual; RICHARD BIRDWELL, an individual; GLOBAL ACCENTS, INC., a California corporation; COUTURE INTERNATIONAL, INC., a Quebec corporation; DOES I through X, inclusive; ROE ENTITIES I through X, inclusive,

Defendants.

**EXHIBIT 1**

**The following Definitions shall apply to each item to be produced as listed below:**

1. "Document" includes but is not limited to items commonly referred to as: written reports, letters, books, telegrams, memoranda, drawings, notes, tape recordings, photographs, writings, statements, written records, minutes of meetings, agreement, contracts, maps, diagrams, illustrations, photographs, telegrams, written analysis, reports, electronic recordings,

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

transcription, and memoranda made of any telephone communication or face-to-face oral meeting or conversation, written communication (which includes, but is not limited to, any letter, interoffice communication and telegram), paper, book or other document. "Document" includes the original, any copy and any drafts thereof or any other written or graphic material communication however denominated.

2. "Correspondence" includes but is not limited to items commonly referred to as: e-mails, facsimiles, letters, telegrams, and any communication exchanged with another.

**LIST OF DOCUMENTS TO PRODUCE**

1. A copy of each and every Document, dated between May 1, 2010 and the present as well as undated documents, relating to any of the following businesses:

- |                                      |                               |                                   |
|--------------------------------------|-------------------------------|-----------------------------------|
| • 5 <sup>th</sup> Avenue Design      | • Global Accents              | • Ovation Furniture & Accessories |
| • Art Classics, Ltd.                 | • Global New Arts Corp.       | • Pacific Art and Frame Co.       |
| • Artcraft Furniture                 | • Good Companies-Finegood     | • Phoenix Imports                 |
| • Artdecor Trading, Inc.             | • Italiana Solatti            | • Pieri Creations                 |
| • BIPZ LLC                           | • Jordi Est E Designs         | • Pottery Land LLC                |
| • Bluefish Trading                   | • Koeing International        | • R Smith Collection              |
| • Brazil Boutique                    | • Kudzu Imports               | • Raj Development                 |
| • California Art Studio              | • Lam House Furnishings       | • Rizzon Furniture                |
| • California Kids Inc.               | • Marthana Home Furnishing    | • Robert M Weiss Presents         |
| • Capa Imports                       | • Max-Win International       | • S.F. Imports                    |
| • Clearwater American Furniture      | • MBM Enterprise              | • Scherer Jardin                  |
| • Compass Home Furnishings           | • Morettis Design Collection  | • Shekhawti Art Imports           |
| • Couture International              | • Natural as Sleep Inc.       | • Soho Design                     |
| • Creative Images                    | • Novidom Contemporary Design | • South Fork Dakota               |
| • DeMoma                             | • Nuance Fine Furniture       | • Spero Electric                  |
| • Friendly Hearts Ltd.               | • Ormasas International       | • Stephan John                    |
| • Fusion Designs                     | • Oshin Imports               | • TBK Inc./Forest Designs         |
| • Futon association of North America |                               | • The Butterfly Effect            |

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

- The Spanish Door Corporation
- Tombstone Silver Works
- Trade AM International, Inc.
- Tru Home USA
- Virtual Couch Ind
- Visiontac
- White Orchid Living
- World Concepts
- World Source Design
- Yalu's Furniture

2. Produce a copy of your Correspondence, including but not limited to e-mails, facsimiles, and any other written communications, between May, 2010 and the present, relating to the following business:

- 5<sup>th</sup> Avenue Design
- Art Classics, Ltd.
- Artcraft Furniture
- Artdecor Trading, Inc.
- BIPZ LLC
- Bluefish Trading
- Brazil Boutique
- California Art Studio
- California Kids Inc.
- Capa Imports
- Clearwater American Furniture
- Compass Home Furnishings
- Couture International
- Creative Images
- DeMoma
- Friendly Hearts Ltd.
- Fusion Designs
- Futon association of North America
- Global Accents
- Global New Arts Corp.
- Good Companies-Finegood
- Italiana Solatti
- Jordi Est E Designs
- Koeing International
- Kudzu Imports
- Lam House Furnishings
- Marthana Home Furnishing
- Max-Win International
- MBM Enterprise
- Morettis Design Collection
- Natural as Sleep Inc.
- Novidom Contemporary Design
- Nuance Fine Furniture
- Ormasas International
- Oshin Imports
- Ovation Furniture & Accessories
- Pacific Art and Frame Co.
- Phoenix Imports
- Pieri Creations
- Pottery Land LLC
- R Smith Collection
- Raj Development
- Rizzon Furniture
- Robert M Weiss Presents
- S.F. Imports
- Scherer Jardin
- Shekhawti Art Imports
- Soho Design
- South Fork Dakota
- Spero Electric
- Stephan John
- TBK Inc./Forest Designs
- The Butterfly Effect
- The Spanish Door Corporation
- Tombstone Silver Works
- Trade AM International, Inc.
- Tru Home USA
- Virtual Couch Ind

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

- 1 • Visiontac • World Concepts • Yalu's Furniture
- 2 • White Orchid Living • World Source Design
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

# **EXHIBIT “F”**

# **EXHIBIT “F”**

**Property Tax Record**[Print friendly version](#)[New Search](#)

Account: 71406DEN  
 APD: 530055A-000000-0000-0912-0000  
 Location: 0000046CIMARRON DR  
 Legal: TROPHY CLUB VILLAGE WEST SEC B  
 LOT 612  
 Owner: TURNER MATTHEW  
 46 CIMARRON DR  
 TROPHY CLUB TX 76262--520

Acres: 0.199  
 Yr Built: 0  
 Sq Ft: 0  
 Def. Start: NONE  
 Def. End: NONE  
 Roll: R  
 UDI: 100%

2011 Values  
 Improvement 135069  
 Land 35248  
 2011 Exemptions  
 HS001 15000

Click on the e-Payment button to make a credit card or eCheck payment.

[Current status](#)[Tax Estimator](#)[e-Payment](#)[e-Statement](#)

| Year        | Unit | Levy Amount | Amount Paid | Levy Due | Penalty | Interest | Col Penalty | Total Due | Receipt Date |
|-------------|------|-------------|-------------|----------|---------|----------|-------------|-----------|--------------|
| 2011        | 061  | 472.38      | 472.38      | 0.00     | 0.00    | 0.00     | 0.00        | 0.00      | 1/4/2012     |
| 2011        | C28  | 902.68      | 902.68      | 0.00     | 0.00    | 0.00     | 0.00        | 0.00      | 1/4/2012     |
| 2011        | S11  | 2,135.61    | 2,135.61    | 0.00     | 0.00    | 0.00     | 0.00        | 0.00      | 1/4/2012     |
| 2011        | W03  | 298.05      | 298.05      | 0.00     | 0.00    | 0.00     | 0.00        | 0.00      | 1/4/2012     |
| 2011 Totals |      | 3,808.73    | 3,808.73    | 0.00     | 0.00    | 0.00     | 0.00        | 0.00      |              |

[Read our Privacy Policy](#)

Steve Mossman  
 Denton County Tax Assessor/Collector

Copyright© 2010 All Rights Reserved.  
 Site Design by Spindlemedia

# **EXHIBIT “G”**

# **EXHIBIT “G”**



**MATT TURNER**  
**September 22, 2011**

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

|                            |   |                       |
|----------------------------|---|-----------------------|
| WMCV PHASE 3, LLC, a       | ) |                       |
| Delaware limited liability | ) |                       |
| co.,                       | ) |                       |
|                            | ) |                       |
| Plaintiff,                 | ) |                       |
|                            | ) | Civil Action          |
|                            | ) | 2:10-CV-00661-GMN-RJJ |
| VS.                        | ) |                       |
|                            | ) |                       |
| SHUSHOK & MCCOY, a Texas   | ) |                       |
| corporation, et al.,       | ) |                       |
|                            | ) |                       |
| Defendant.                 | ) |                       |

-----

CERTIFICATE OF NONAPPEARANCE

-----

**COPY**

DATE: September 22, 2011

TIME: 8:45 a.m.

WITNESS TO BE DEPOSED: Matt Turner

a/k/a Matthew Turner

**CSI GLOBAL DEPOSITION SERVICES**  
**972-719-5000**

**MATT TURNER**  
**September 22, 2011**

1 APPEARANCE  
2 FOR THE PLAINTIFF WMCV PHASE 3, LLC, A DELAWARE  
3 LIMITED LIABILITY CO.:  
4 Mr. Matthew T. Cecil  
5 MARQUIS AURBACH COFFING  
6 10001 Park Run Drive  
7 Las Vegas, Nevada 89145  
8 Telephone: 702.382.0711 - Fax: 702.856.8911  
9 E-mail: mcecil@maclaw.com  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ALSO PRESENT: Ross A. Mortillaro  
LACKEY HERSHMAN, LLP  
3102 Oak Lawn Avenue  
Suite 777  
Dallas, Texas 75219

**MATT TURNER**  
**September 22, 2011**

|   |                              |   |                       |
|---|------------------------------|---|-----------------------|
| 1 | UNITED STATES DISTRICT COURT |   |                       |
| 2 | DISTRICT OF NEVADA           |   |                       |
| 3 | WMCV PHASE 3, LLC, a         | ) |                       |
|   | Delaware limited liability   | ) |                       |
| 4 | co.,                         | ) |                       |
|   |                              | ) |                       |
| 5 | Plaintiff,                   | ) |                       |
|   |                              | ) | Civil Action          |
| 6 |                              | ) | 2:10-CV-00661-GMN-RJJ |
|   | VS.                          | ) |                       |
| 7 |                              | ) |                       |
|   | SHUSHOK & MCCOY, a Texas     | ) |                       |
| 8 | corporation, et al.,         | ) |                       |
|   |                              | ) |                       |
| 9 | Defendant.                   | ) |                       |

-----  
 CERTIFICATE OF NONAPPEARANCE  
 -----

I, Kim D. Carrell, a Certified Shorthand Reporter  
 in and for the State of Texas, hereby certify to the  
 following facts, to-wit:

That pursuant to a Subpoena to Testify at a  
 Deposition or to Produce Documents in a Civil Action,  
 I was requested to appear for the Oral Deposition of  
 Matt Turner a/k/a Matthew Turner, scheduled to be held  
 on September 22, 2011, at 8:45 a.m., at the offices of  
 Lackey Hershman, LLP, 3102 Oak Lawn Avenue, Suite 777,  
 Dallas, Texas;

That on the 22nd day of September, 2011, at 8:30  
 a.m., I personally appeared at the offices of Lackey  
 Hershman, LLP, 3102 Oak Lawn Avenue, Suite 777, Dallas,

**MATT TURNER**  
**September 22, 2011**

1 Texas, for the purpose of reporting the Oral Deposition  
2 of Matt Turner a/k/a Matthew Turner, at the instance of  
3 the Plaintiff;

4 That I remained at the deposition location  
5 until 9:45 a.m., and Matt Turner a/k/a Matthew Turner  
6 did not appear for the deposition;

7 That \$ 250.<sup>00</sup> is the charge for the preparation  
8 of the completed certificate of nonappearance charged to  
9 Plaintiff.

10 SUBSCRIBED AND SWORN TO UNDER MY HAND on this  
11 the 4 day of October, 2011.



15 Kim D. Carrell  
16

17 Kim D. Carrell, CSR  
18 Texas CSR 1184  
Expiration: 12/31/11

19 CSI GLOBAL DEPOSITION SERVICES  
20 Firm Registration No. 526  
Corporate Plaza 1/Suite 152  
21 4950 N. O'Connor Road  
Irving, Texas 75062  
22 972.719.5000/972.717.3985 (fax)  
23  
24  
25

# **EXHIBIT “H”**

# **EXHIBIT “H”**



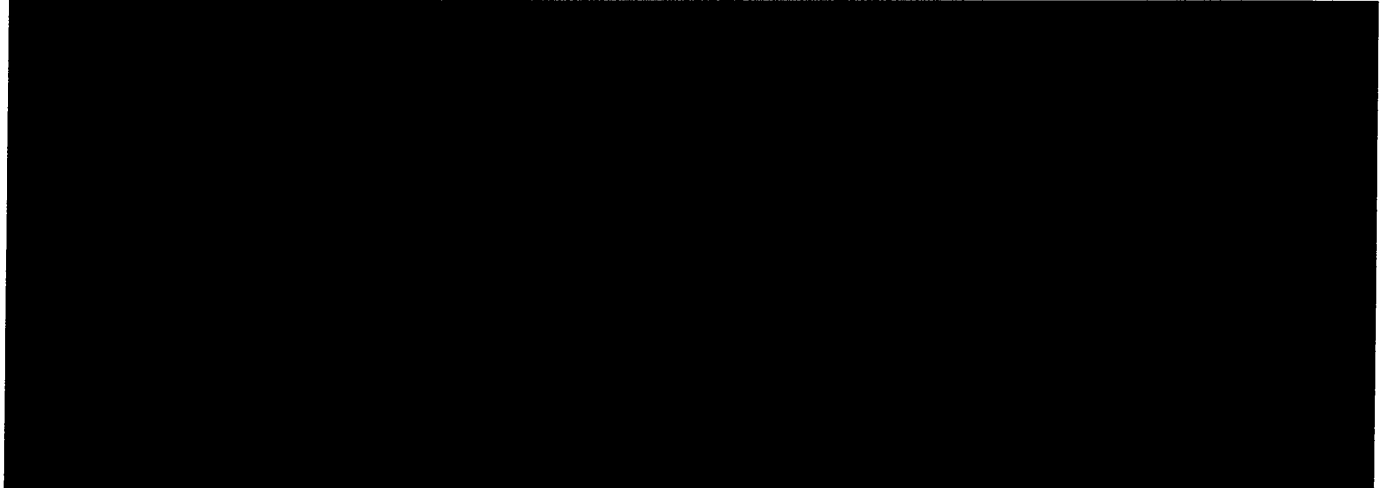
## MARQUIS AURBACH COFFING P.C.

WMCV Phase 3, LLC  
 RE: Shusok & McCoy, et al. vs.  
 ID: 11320-004 - TAC

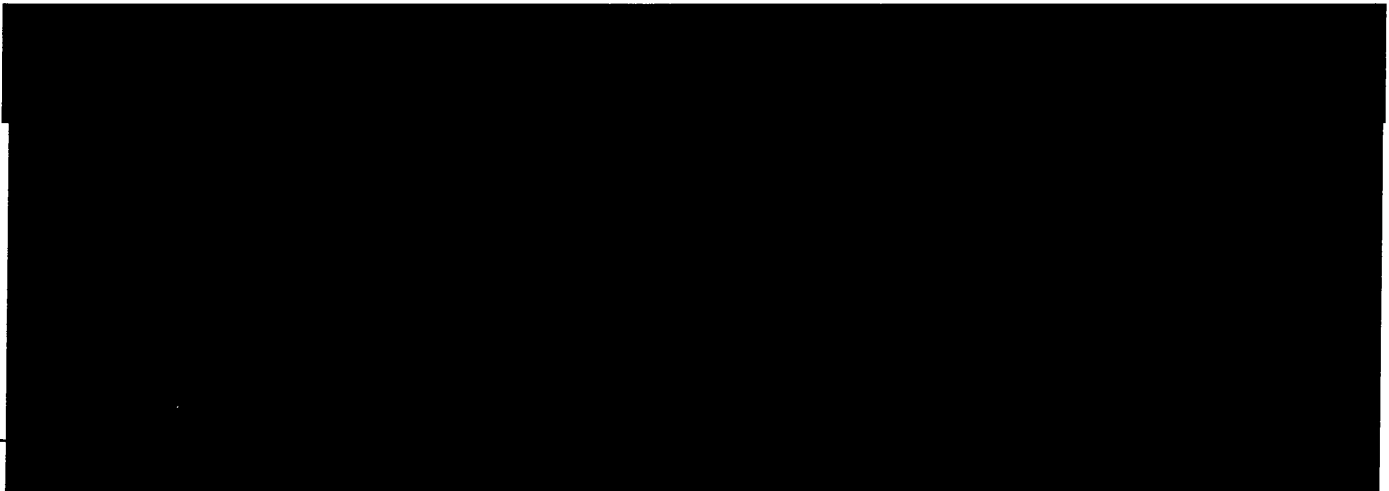
May 13, 2011  
 Invoice 234405  
 Page 2

## Fees

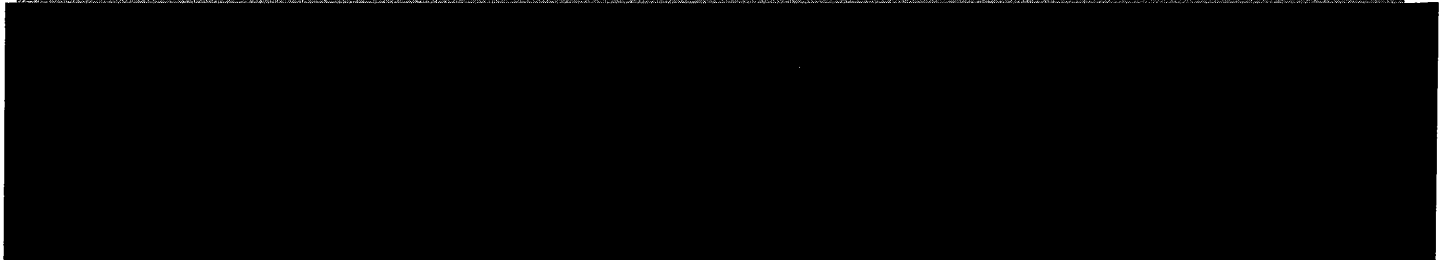
| Date | Atty | Description | Hours | Amount |
|------|------|-------------|-------|--------|
|------|------|-------------|-------|--------|



|          |     |   |      |                             |
|----------|-----|---|------|-----------------------------|
| 04/25/11 | MTC | Draft deposition notices for: (1) Shushok's 30(b)(6) witness; (2) Global Accents' 30(b)(6) witness; (3) Matt Travis; (4) Matt Turner; and (5) Richard Birdwell. | 0.80 | 180.00<br>$180 \div 5 = 36$ |
| 04/27/11 | MTC | Review, revision and finalization of deposition notices to defendants.  | 0.40 | 90.00<br>$90 \div 5 = 18$   |



## Disbursements



**MARQUIS AURBACH COFFING P.C.**

WMCV Phase 3, LLC  
RE: Shusok & McCoy, et al. vs.  
ID: 11320-004 - TAC

May 13, 2011  
Invoice 234405  
Page 3

**Date**

### Description

Amount

\_\_\_\_\_





MARQUIS AURBACH COFFING P.C.

WMCV Phase 3, LLC  
RE: Shusok & McCoy, et al. vs.  
ID: 11320-004 - TAC

June 16, 2011  
Invoice 236328  
Page 2

Fees

|          |     |   |      |        |
|----------|-----|---|------|--------|
| 05/16/11 | MTC | Preparation for deposition of Matt Turner.  | 2.10 | 472.50 |
| 05/16/11 | MTC | Attendance at deposition of Matt Turner - place on the record Mr. Turner's failure to appear; initial discussions with Couture's counsel regarding possible settlement. | 0.90 | 202.50 |

**MARQUIS AURBACH COFFING P.C.**

WMCV Phase 3, LLC  
RE: Shusok & McCoy, et al. vs.  
ID: 11320-004 - TAC

June 16, 2011  
Invoice 236328  
Page 3

| Date | Atty | Description | Hours | Amount |
|------|------|-------------|-------|--------|
|------|------|-------------|-------|--------|

|            |  |  |  |  |
|------------|--|--|--|--|
| [REDACTED] |  |  |  |  |
|------------|--|--|--|--|

**Disbursements**

| Date | Description | Amount |
|------|-------------|--------|
|------|-------------|--------|

|            |  |  |
|------------|--|--|
| [REDACTED] |  |  |
|------------|--|--|

|          |   |        |
|----------|---|--------|
| 05/20/11 | Check Issued; Deposition of Matthew Turner; Cameo Kayser & Associates | 156.00 |
|----------|---|--------|

|            |  |  |
|------------|--|--|
| [REDACTED] |  |  |
|------------|--|--|

**MARQUIS AURBACH COFFING P.C.**

---

WMCV Phase 3, LLC  
RE: Shusok & McCoy, et al. vs.  
ID: 11320-004 - TAC

June 16, 2011  
Invoice 236328  
Page 4

---



**MARQUIS AURBACH  
COFFING**  
ATTORNEYS AT LAW

10001 PARK RUN DRIVE  
LAS VEGAS, NEVADA 89145  
Telephone 702-382-0711  
Fax 702-382-5816

WMCV Phase 3, LLC  
Attn: Jonathan Leleu, Esq. In-House Counsel  
World Market Center Las Vegas  
495 South Grand Central Parkway  
Las Vegas, NV 89106

Invoice 241990  
October 17, 2011

ID: 11320-004 - TAC

RE: Shushok & McCoy, et al. vs.

For Services Rendered Through September 30, 2011

Previous Balance

Advanced Deposit Applied

Balance Forward

Current Fees

Current Disbursements

Courtesy Discount

Total Current Charges

**Total Due**

Payment is due upon receipt of invoice. Invoices not paid within 30 days are considered delinquent. Interest will accrue on invoices not paid within 30 days and we may discontinue representation at such time. For your convenience, we accept Visa, MasterCard and American Express. Please call 702-942-2159 if you would like to pay by credit card.

## MARQUIS AURBACH COFFING P.C.

WMCV Phase 3, LLC  
 RE: Shushok & McCoy, et al. vs.  
 ID: 11320-004 - TAC

October 17, 2011  
 Invoice 241990  
 Page 2

| Fees     |      |   |       |                                  |
|----------|------|---|-------|----------------------------------|
| Date     | Atty | Description   | Hours | Amount                           |
|          |      |   |       |                                  |
| 09/02/11 | MTC  | Research regarding subpoenaing an out-of state party in Federal Court for a deposition.                   | 1.40  | 217.00<br>$217 \div 4 = 54.2$    |
| 09/05/11 | MTC  | Preparation of deposition subpoenas for Shushok & McCoy's 30(b)(6) witness, Travis, Turner, and Birdwell. | 2.00  | 310.00<br>$310 \div 4 = 77$      |
|          |      |   |       |                                  |
| 09/13/11 | MTC  | Begin document review in preparation for taking Shushok, Turner, Birdwell, and Travis' depositions.       | 2.20  | 341.00<br>$341 \div 4 = 85.25$   |
| 09/14/11 | TAC  | Meeting with MTC regarding documents for deposition; begin preparation for same.                          | 0.80  | 200.00<br>$200 \div 4 = 50$      |
| 09/15/11 | MTC  | Review documents and evidence in preparation for depositions of Shushok defendants and Global.            | 7.00  | 1,085.00<br>$1,085 \div 5 = 217$ |
| 09/16/11 | MTC  | Finalize document review and rough draft of outline for Shushok defendants' depositions.                  | 4.00  | 620.00<br>$620 \div 4 = 155$     |

## MARQUIS AURBACH COFFING P.C.

WMCV Phase 3, LLC  
 RE: Shushok & McCoy, et al. vs.  
 ID: 11320-004 - TAC

October 17, 2011  
 Invoice 241990  
 Page 3

| Date       | Atty | Description  | Hours                     | Amount                             |
|------------|------|--|---------------------------|------------------------------------|
| 09/20/11   | MTC  | Finalization of preparation to travel to Texas to take the Shushok defendants' depositions.          | 3.50                      | 542.50<br>$542.5 \div 4 = 135.625$ |
| 09/21/11   | MTC  | Travel from Las Vegas, Nevada to Dallas, Texas for Shushok defendants' depositions.                  | 6.00                      | 930.00<br>$930 \div 4 = 232.5$     |
| 09/21/11   | MTC  | Review and revision of deposition outlines for Matt Turner and Shushok's 30(b)(6) witness.           | 4.00                      | 620.00<br>$620 \div 2 = 310$       |
| 09/22/11   | MTC  | Final preparations for Matt Turner and Shushok's 30(b)(6) depositions.                               | 2.00                      | 310.00<br>$310 \div 2 = 155$       |
| 09/22/11   | MTC  | Appearance at Matt Turner's deposition; wait for Mr. Turner and create record of his non-appearance. | 1.00                      | 155.00                             |
| 09/23/11   | MTC  | Travel to Las Vegas, Nevada from Texas.  | $1007.5 \div 4 = 251.875$ | 1,007.50<br>251.875                |
| Total Fees |      |  |                           |                                    |

| Disbursements |   |  |
|---------------|---|--|
| Date          | Description   | Amount                                 |
| 09/19/11      | Travel Expenses; Airfare to/from Dallas, TX for depositions | $544 \div 4 = 136$ 544.40<br>136       |
| 09/19/11      | Travel Expenses; Hotel while in Dallas, TX for depositions  | $409 \div 4 = 102.25$ 409.80<br>102.25 |

## MARQUIS AURBACH COFFING P.C.

WMCV Phase 3, LLC  
 RE: Shushok & McCoy, et al. vs.  
 ID: 11320-004 - TAC

October 17, 2011  
 Invoice 241990  
 Page 4

| Date     | Description  | Amount                              |
|----------|--|-------------------------------------|
| 09/30/11 | Travel Expenses; Baggage fee from Texas depositions      | $50 \div 4 = 12.50$ 50.00 12.5      |
| 09/30/11 | Travel Expenses; Meals while attending depositions       | $111.55 \div 4 = 27.89$ 111.55 27.8 |
| 09/30/11 | Travel Expenses; Parking fee while attending depositions | $11 \div 4 = 2.75$ 11.00 2.7        |
| 09/30/11 | Travel Expenses; Shuttle fee for depositions in Texas    | $36 \div 4 = 9$ 36.00 9.0           |